

**DEPARTMENT OF TAXATION  
2010 Fiscal Impact Statement**

**1. Patron** John A. Cox

**2. Bill Number** HB 384

**3. Committee** Passed by House and Senate

**House of Origin:**

☐ Introduced

☐ Substitute

☐ Engrossed

**4. Title** Income Tax: Reporting Requirements For  
Out-Of-State Tax Credit

**Second House:**

☐ In Committee

☐ Substitute

☒ Enrolled

**5. Summary/Purpose:**

This bill would extend the statute of limitations for filing amended individual income tax returns for Virginia residents who are audited and assessed income tax by other states.

This bill would be effective for amended returns filed on or after July 1, 2010.

**6. Fiscal Impact Estimates are:** Final. (See Line 8.)

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

Administrative Costs

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have no revenue impact for FY 2010 and a negligible impact for FY 2011 through 2016.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Current Law

Under current law, Virginia residents are allowed a credit against their income tax liability when they pay income tax to another state. The intent of the credit is to grant Virginia residents relief in situations where they are taxed by both Virginia and another state on the same income.

Prior to 2006, when another state assessed tax after the normal three-year period for filing amended Virginia returns, the taxpayer could not claim the credit for the other state's tax. If the taxpayer failed to make a timely request to extend the statute of limitations, they lost the opportunity to claim an offsetting credit on their Virginia return.

In 2006, the General Assembly enacted legislation (2006 Acts of Assembly, Chapter 234 Senate Bill 583) to permit Virginia residents who claimed an out-of-state tax credit on their original return to file amended returns. That legislation allowed taxpayers who had claimed a credit for taxes paid to another state one year from the final determination of a change made by any other state to file an amended Virginia return.

### Impact of Other States' Audits

Other states have audited and assessed tax to Virginia residents who did not claim an out-of-state tax credit on their original Virginia return. This has resulted in a number of Virginia residents being denied refund claims. While those taxpayers who are sophisticated enough to know to file protective claims for refunds have been able to avoid double taxation, other taxpayers have not.

### Proposed Legislation

This bill would extend the statute of limitations for filing amended individual income tax returns for Virginia residents who are audited and assessed income tax by other states. Accordingly, all Virginia taxpayers would now be allowed to claim the credit for taxes paid to other states provided they notify TAX within one year of the other state's action.

This bill would be effective for amended returns filed on or after July 1, 2010.

cc : Secretary of Finance

Date: 2/26/2010 TG  
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